Wright Memorial Hospital and Local Union No. 50, Service Employees International Union, AFL-CIO-CLC, Petitioner. Cases 17-RC-9137, 17-RC-9138, and 17-RC-9139

May 5, 1980

## **DECISION ON REVIEW AND ORDER**

On November 6, 1980, the Regional Director for Region 17 issued a Decision and Direction of Elections in the above-entitled proceeding in which he found appropriate the two units sought by the Petitioner, one of all ambulance department employees, and the other of all other employees employed at the Employer's Trenton, Missouri, hospital, rejecting the Employer's contentions that RNs who are "charge nurses" should be excluded as supervisors, and that certain ambulance department employees should be excluded as guards within the meaning of Section 9(b)(3) of the Act. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Employer filed a timely request for review on the grounds, inter alia, that he made erroneous findings of fact and departed from officially reported precedent.

By telegraphic order dated December 8, 1980, the request for review was granted.<sup>2</sup>

The Board has considered the entire record in this case with respect to the issues under review and makes the following findings:

The Employer is engaged in the operation of a hospital providing medical and professional care services in Trenton, Missouri. The hospital is a one-story building with a basement. The main floor consists of three wings which basically contain patient care rooms and are designated as Nursing Stations 1, 2, and 3. The facility contains 78 beds and employs approximately 205 part-time and full-time employees.

The parties agreed to the appropriateness of two separate units, and to exclude, *inter alia*, the administrators, assistant administrator, director of nurses, and 14 department heads, as supervisory and/or managerial employees. The Employer, contrary to the Petitioner, would exclude approximately 15 RNs who are designated "charge nurses" as supervisors, and 6 ambulance department employees who work on the second and third shifts as guards.

The Employer operates on a 24-hour, 7-day-week basis. There are approximately 183 employ-

ees in the 2 units, including a total of 20 RNs,<sup>3</sup> 28 licensed practical nurses (LPNs), and 75 nurses aides. Each of the three nursing stations is staffed as follows: The 7 a.m. to 3 p.m. shift has one RN, one LPN, and four nurses aides.<sup>4</sup> The 3 p.m. to 11 p.m. shift has one RN, one LPN, and three nurses aides. The 11 p.m. to 7 a.m. shift has one RN, one LPN, and two nurses aides. The RN on each shift is "in charge," the LPNs dispense medications to the patient pursuant to the doctor's instructions, and the nurses aides engage in "hands on" care of the patients. One of the nurses aides at each station acts as a ward clerk.

While these RN charge nurses do not hire or fire employees or interview potential employees, the record shows that they have authority to: hold employees over to work overtime, release employees from work, assign work and set priorities for employees, call in off-duty employees to work, resolve complaints or grievances, evaluate employees in writing, give written reprimands, send employees home on disciplinary suspension without pay, and to recommend harsher discipline up to and including discharge. In this regard, the record shows that, from 3 p.m. to 7 a.m. daily and all weekend, these charge nurses represent the highest authority in the hospital and exercise their authority on their own initiative, without need for prior approval. While the Regional Director found that charge nurses regularly call on the director of nurses with problems, the director of nurses testified that "They [RNs] attempt to handle the problem themselves. If they have any difficulty or want to ask for suggestions, then they will call me. They are not required to do so."

With respect to the charge nurses' effectiveness in making written recommendations as to discipline and termination of employees, the director of nurses testified as to three instances in which a charge nurse gave written reprimands with recommendations to terminate. In each instance, the employee was terminated based on the charge nurse's recommendation. In another instance, the charge nurse gave a written reprimand with a recommendation for a suspension. The employee received a 2-week suspension. The record further shows that charge nurses possess the same authority as the department heads who were stipulated to be supervisors.

<sup>&</sup>lt;sup>1</sup> On November 10, 1980, the Regional Director issued an errata to provide registered nurses (RNs), whom he found to be professional employees, with a separate vote as required by Sec. 9(b)(1) of the Act.

<sup>&</sup>lt;sup>2</sup> The election was conducted on December 5, 1980, and all the ballots cast in each unit were impounded, and the ballots of those voters whose eligibility was in dispute were segregated from the others, pending disposition of the request for review.

<sup>&</sup>lt;sup>3</sup> Of the approximately 20 RNs, the Regional Director found 4—the director of nurses and the RNs in charge of the operating room, emergency room, and critical care room, respectively—to be supervisors. The RN In-Service Education Coordinator was excluded as managerial. The remaining 15 or 16 RNs in dispute work, as a group, 7 days a week, each working three 12-hour shifts per week.

The director of nurses usually works this shift, Monday through Friday.

Based on the foregoing, it is clear that RN charge nurses possess and exercise supervisory authority which requires the use of independent judgment and goes beyond the mere exercising of professional judgment. Moreover, to find them not to be supervisors would result in an unrealistic ratio and would leave the hospital without supervision on two of the three shifts and on weekends. Based on the above facts and the record as a whole, we find that the 15 or 16 RN charge nurses are supervisors as defined in the Act. They are therefore excluded from the broad unit and the ballots cast by them shall not be included in the tally for unit A.

With respect to the ambulance department employees sought, there is one supervisor and eight employees who work on three nonrotating shifts. Three employees work on each shift. These employees are classified as emergency medical technician, mobile emergency technician, and emergency medical technician—paramedic. There was uncontradicted testimony that, in addition to performing their regular ambulance duties, the six employees on the evening and night shifts are required to make security rounds, usually twice a shift. Each round is accomplished in approximately 1 hour. The hospital has no other security force.

In making their rounds of the hospital premises they are on the lookout for fire, theft, vandalism, and unauthorized personnel. They also check to see that doors are locked. If they discover an irregularity or violation, they take no action on their own, but rather report it to the department head where it occurs. If an ambulance call comes in while one of them is making a round, the round is abandoned and the employee answers the call. They do not wear guard uniforms or carry firearms.

The Regional Director found that the security rounds are only an ancillary function that is performed when the ambulance department employees are not performing their primary function, and that it is too incidental to warrant their exclusion as guards within the meaning of Section 9(b)(3) of the the Act. We do not agree.

In light of the facts set forth above, we believe that the six ambulance department employees are employed to enforce, against employees and others, rules to protect the Employer's property and the safety of persons on the premises. It is immaterial that they do not themselves enforce these rules. Rather, it is sufficient that they possess and exercise responsibility to observe and report infractions, as this is an essential step in the procedure for enforcement of hospital rules.<sup>5</sup> Likewise, it is not determinative that this is not their only function. In the circumstances, we find that they are guards within the meaning of Section 9(b)(3) and shall be excluded from the unit of ambulance department employees.6 Accordingly, as we find the six ambulance department employees on the second and third shifts to be guards, they are excluded from unit B and the ballots cast by them shall not be included in the tally for that unit.

## **ORDER**

It is hereby ordered that the case be remanded to the Regional Director for the purpose of opening and counting the ballots of eligible voters, cast in the election held December 5, 1980, pursuant to his Decision and Direction of Election, as modified herein.

<sup>&</sup>lt;sup>5</sup> See West Virginia Pulp and Paper Company (Hinde & Dauch Division, Detroit Plant), 140 NLRB 1160 (1963), and cases cited therein.

<sup>6</sup> Id.; see also The Wackenhut Corporation, 196 NLRB 278, 279 (1972).